

CARL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
COMMISSIONER



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BRIAN C. McNEIL
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

DATE: December 6, 1999

DOCKET NO.: T-03352A-97-0168

TO ALL PARTIES:

Enclosed please find the recommendation of Hearing Officer Jane Rodda. The recommendation has been filed in the form of an Order on:

RSL COM U.S.A., INC.
(CC&N/RESELLER)

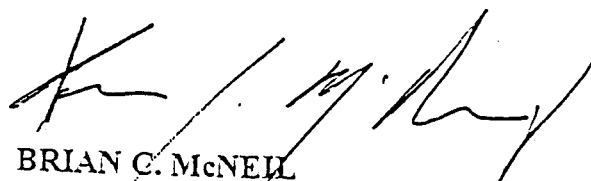
Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

DECEMBER 15, 1999

The enclosed is NOT an order of the Commission, but a recommendation of the Hearing Officer to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

JANUARY 5, 2000 AND JANUARY 6, 2000

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250.


BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 CARL J. KUNASEK
CHAIRMAN

3 JIM IRVIN
COMMISSIONER

4 WILLIAM A. MUNDELL
COMMISSIONER

5
6 IN THE MATTER OF THE APPLICATION OF
RSL COM U.S.A., INC. FOR A CERTIFICATE OF
7 CONVENIENCE AND NECESSITY TO PROVIDE
COMPETITIVE RESOLD
8 TELECOMMUNICATIONS SERVICES EXCEPT
LOCAL EXCHANGE SERVICES.

DOCKET NO. T-03352A-97-0168

DECISION NO. _____

ORDER

9 Open Meeting
10 January 5 and 6, 2000
Phoenix, Arizona

11 **BY THE COMMISSION:**

12 Having considered the entire record herein and being fully advised in the premises, the
13 Commission finds, concludes, and orders that:

14 **FINDINGS OF FACT**

15 1. On April 3, 1997, RSL COM U.S.A., Inc. ("Applicant") filed with the Commission an
16 application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive
17 resold intrastate toll telecommunications services in Arizona.

18 2. In Decision No. 58926 (December 22, 1994), the Commission found that resold
19 telecommunications providers ("resellers") were public service corporations subject to the
20 jurisdiction of the Commission.

21 3. In Decision No. 59124 (June 23, 1995), the Commission adopted A.A.C. R14-2-1101
22 through R14-2-1115 to regulate resellers.

23 4. Applicant is a Delaware corporation that has been authorized to do business in
24 Arizona since 1997.

25 5. Applicant is a switchless reseller and plans to resell services provided by MCI, Sprint
26 and LCI.

27 6. On August 20, 1999, the Commission's Utilities Division Staff ("Staff") filed a Staff
28 Report.

7. In the Staff Report, Staff stated that Applicant had provided audited consolidated financial statements for its parent, RSL Communications, Ltd., ("RSLC") as well as a letter certifying that RSLC will fully support the Applicant. RSLC is a publicly traded company on the NASDAQ exchange. As of December 31, 1998, RSLC had assets of \$1.71 billion and stockholders' equity of \$133.5 million. RSLC reported a net loss for the year of \$219.2 million. Based on this information, Staff believed the Applicant has sufficient financial resources to make necessary plant additions or incur operating losses.

8. The Staff Report stated that Applicant has no market power and the reasonableness of its rates would be evaluated in a market with numerous competitors.

9. Staff recommended that:

(a) Applicant's application for a Certificate should be approved without a hearing subject to A.A.C. R14-2-1106.B;

(b) Applicant's intrastate toll service offerings should be classified as competitive pursuant to A.A.C. R14-2-1108;

(c) Applicant's competitive services should be priced at the effective rates set forth in Applicant's tariffs and the maximum rates for these services should be the maximum rates proposed by Applicant in its tariffs. The minimum rates for applicant's competitive services should be Applicant's long run incremental costs of providing those services as set forth in A.A.C. R14-2-1109; and

(d) Applicant should be required to comply with the Commission's rules and modify its tariffs to conform with the rules if it is determined there is a conflict between Applicant's tariffs and the Commission's rules.

10. By Procedural Order dated October 4, 1999, the Commission set a deadline of November 19, 1999, for filing exceptions to the Staff Report; requesting that a hearing be set; or requesting intervention as interested parties.

11. No exceptions were filed to the Staff Report, nor did any party request that a hearing be set.

CONCLUSIONS OF LAW

1. Applicant is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

2. The Commission has jurisdiction over Applicant and the subject matter of the application.

3. Notice of the application was given in accordance with the law.

4. Applicant's provision of resold intrastate toll telecommunications services is in the public interest.

5. Applicant is a fit and proper entity to receive a Certificate for providing competitive intrastate toll telecommunications services as a reseller in Arizona.

6. Staff's recommendations in Findings of Fact No. 9 are reasonable and should be adopted.

ORDER

IT IS THEREFORE ORDERED that the Application of RSL COM U.S.A., Inc. for a Certificate of Convenience and Necessity for authority to provide competitive resold intrastate toll telecommunications services shall be, and the same, is hereby granted.

IT IS FURTHER ORDERED that RSL COM U.S.A., Inc. shall comply with the Staff recommendations set forth in Findings of Fact No. 9.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of _____, 2000.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT
JR:DAP

1 SERVICE LIST FOR: RSL COM U.S.A., INC

2 DOCKET NO. T-03352A-97-0168

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